

EXHIBIT B

Elizabeth M. Pall

From: Elizabeth M. Pall
Sent: Monday, March 1, 2021 11:35 AM
To: Eugene K. Hollander
Cc: Ira M. Levin
Subject: RE: Sheaffer v. Glendale
Attachments: DRAFT - MSJ Joint Statement of Undisputed Material Facts - Plaintiff Additions.docx; 2021-03-01 Draft Statement of Undisputed Material Facts - Redline.pdf

Gene,

Please see our proposed revisions. I have also included a redline. I used direct quotes from the testimony wherever possible to eliminate any basis for dispute. You added a number of paragraphs regarding Zubek's testimony. I've put those in separate section in an attempt to have the document flow better. I have moved a few other paragraphs around as well. So, while it may seem like there is a lot of red, much of it is just a result of reorganization. The following were the substantive changes I made:

- Paragraph 15 of your draft: I removed the second clause of the sentence. Whether Plaintiff was molested as a child is not a material fact relevant to the motion or to Plaintiff's claims in this case. There is also no basis to say this is an undisputed fact.
- Paragraph 21 of your draft: Plaintiff did not testify that he complained to Rebecca the BDC manager about Binner allegedly putting a photo on his computer. See below.

9	Q.	Did you ever make a complaint about
10	Mr. Binner	putting the picture on your computer?
11	A.	Yes.
12	Q.	Who did you complain to?
13	A.	I went to Mario. And, again, that
14		became a joke.
15	Q.	Did you complain to anyone other than
16	Mario?	
17	A.	I believe I told Keith about it.
18	Q.	Anyone else?
19	A.	That's it.

- Paragraph 27 of your draft: there is no basis to characterize Plaintiff's emotion at his deposition, it is not admissible, and it is not relevant to the motion. Additionally, it is disputed.
- Paragraphs 28-29 of your draft: the testimony you cite to on pages 157 through 160 does not relate to alleged sexual harassment, nor does he allege that Arben Halipaj engaged in any sexual harassment.
- Paragraph 31 of your draft: this testimony related to complaints Plaintiff allegedly made regarding age-related comments only, not sexual harassment. Thus, it is not relevant to this motion.
- Paragraph 32 of your draft: the first sentence (whether something constitutes sexual harassment) is a legal conclusion, not a fact.
- Paragraph 37 of your draft: Judge Ellis already ruled on this paragraph, I've re-included the block quote from Plaintiff's deposition testimony.
- Paragraph 38 of your draft. The testimony you cited from Plaintiff ("I don't know what his – what his situation was. It was just an uncomfortable situation and I did not enjoy it at all") does not support your proposed fact

that "Plaintiff testified that he did not know what Zubek and Binner's motivation was for what they were doing to him." First of all, Plaintiff is only talking about Zubek in that testimony. Second, if you want to say that Plaintiff testified he didn't know what Zubek's situation was, that is fine, but he didn't say that he didn't know what his "motivation" was. Finally, the part regarding Plaintiff being uncomfortable is already included in your paragraph 39 (now paragraph 31).

- Paragraph 41 of your draft. This is a legal conclusion, not a fact– as I stated in my objection when you asked the question at Mario's deposition.

Thanks,
Liz

Elizabeth M. Pall

Partner

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From: Eugene K. Hollander <ehollander@ekhlaw.com>

Sent: Wednesday, February 24, 2021 11:55 AM

To: Elizabeth M. Pall <EPall@burkelaw.com>

Cc: Ira M. Levin <ILevin@burkelaw.com>

Subject: Sheaffer v. Glendale

Importance: High

Liz,

Please find attached the revised Joint Statement of Facts and Mr. Sheaffer's Affidavit.

Please add a signature block on for me in the final version.

We still have not received your Affidavits and at this point, stand on our objections until same is sent to me. Further, until the Affidavits are sent, we reserve the right to make further changes to the Joint Statement.

Last, should our documents require any further discussion, I have a deposition which will tie me up most of tomorrow. Further, I will be unavailable most of Friday for a personal matter.

Gene

Eugene K. Hollander

The Law Offices of Eugene K. Hollander